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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/220,223	12/23/1998	TOSHIO KOBAYASHI	20389/81866	3786

7590

10/08/2002

Baker & Daniels
111 East Wayne Street, Ste. 800
Fort Wayne, IN 46802

EXAMINER

COLE, ELIZABETH M

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 10/08/2002

25

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/220,223

Applicant(s)

KOBAYASHI ET AL.

Examiner

Elizabeth M Cole

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 6-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

1. Claims 1-3, 6-12 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification as originally filed does not state that "said thermoplastic synthetic fibers being non-fused throughout said fabric". See Ex parte Grasselli, 231 USPQ 393 (Bd. App. 1983), aff'd mem., 738 F.2d 453 (Fed. Cir. 1984). The mere absence of a positive recitation is not basis for an exclusion. Any claim containing a negative limitation which does not have basis in the original disclosure should be rejected under 35 U.S.C. 112, first paragraph as failing to comply with the written description requirement.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1-3, 6-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson, U.S. Patent No. 4,100,324 in view of Radwanski et al, U.S. Patent No. 4,879,170. Anderson discloses a nonwoven fabric comprising meltblown microfibers, and a pulp material. The microfibers have a diameter of 2-6 microns and have a length of about the same as or greater than a staple fiber, which seems to encompass the claimed range. (Staple fibers are generally known to have a length of anywhere from 25- 180mm). See col. 2, lines 46-54. The pulp material may have a length of 0.5 -10 mm. See col. 2, lines 55-62. The pulp fibers and microfibers may be present in the claimed proportions. The nonwoven may have a basis weight within the claimed range. See example IX. The nonwoven is useful as an absorbent wipe. Anderson differs from

the claimed invention because Anderson forms the embossed areas via heat bonding which may reduce the absorbency of the fabric at least at the embossed areas. Radwanski et al teaches that nonwoven fabrics may be hydroentangled on a mesh screen, forming wire or apertured plate in order to form embossments or protuberances without changing the properties such as absorbency, etc., of the fabric. See col. 6, line 64 - col. 7, line 17 and col. 14, lines 4-41. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the embossed pattern by hydroentangling the fabric. One of ordinary skill in the art would have been motivated to employ hydroentangling and a forming fabric rather than a heat embossing process in order to maintain the absorbency of the fabric even in the patterned areas.

4. Applicant's arguments filed 8/1/02 have been fully considered but they are not persuasive. Applicant's arguments with regard to the rejections over Anderson alone are moot since the amendment adding the limitation that the thermoplastic synthetic fibers are non-fused over these grounds of rejection. With regard to the combination of Anderson and Radwanski, Applicant argues that Radwanski does not teach forming protuberances or embossments. However, at col. 14, lines 4-41, Radwanski teaches that smooth or pattern surfaces can be formed depending on the type of support which is used. Therefore, Radwanski teaches forming embossment or protuberances because Radwanski teaches that either a smooth or patterned surface can be formed. With regard to the teaching that hydroentangling results in a fabric which has improved properties as compared to other types of fabric bonding such as adhesives or needling, see col. 6, line 64 - col. 7, lines 17.

Applicant argues that the discussion in Radwanski about the Anderson process would preclude the combination of the two references set forth above. However, it is the examiner's position that in view of the discussion of Anderson set forth in Radwanski, one of ordinary skill in

the art would have been motivated to employ the process of bonding disclosed in Radwanski with the fabric of Anderson, (i.e., the types of fibers, size, etc. disclosed in Anderson), in order to obtain the benefits of the Radwanski process with the starting materials employed by Radwanski.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

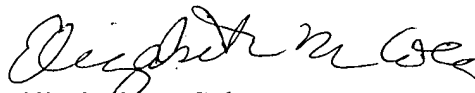
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (703) 308-0037. The examiner may be reached between 6:30 AM and 5:00 PM Monday through Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (703) 308-2414.

Inquiries of a general nature may be directed to the Group Receptionist whose telephone number is (703) 308-0661.

The fax number for official faxes is (703) 872-9310. The fax number for official after final faxes is (703) 872-9311. The fax number for unofficial faxes is (703) 305-5436.



Elizabeth M. Cole
Primary Examiner
Art Unit 1771

e.m.c
October 2, 2002